

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

UNITED STATES OF AMERICA, .
Docket No. 4:20-CR-00046-JM-1
PLAINTIFF, .
VS. . Little Rock, Arkansas
March 10, 2021
DESHAON TERRELL ASKEW, . 11:50 a.m.
DEFENDANT. .
.

TRANSCRIPT OF
REVOCATION HEARING
BEFORE THE HONORABLE JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE

ELECTRONIC COURT RECORDER-OPERATOR: Ms. LaShawn Coleman

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I N D E X

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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GOVERNMENT'S WITNESS:

Tanya Glass	7	9	15	15
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DEFENDANT'S WITNESS:

Deshaon Terrell Askew	20	23		
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P R O C E E D I N G S

(Call to order of the Court.)

THE COURT: Good morning and please be seated.

MS. SHIPLEY: Good morning, Your Honor.

MR. BYRD: Good morning, Your Honor.

THE COURT: Okay. The first case on the docket is *United States of America v. Deshaon Terrell Askew*. This is case number 4:20-CR-00046.

The history of the case is that Mr. Askew appeared for plea and arraignment before this Court on June 15 last year. He was charged in Count 1 with being a felon in possession of a firearm; Count 2, possession with intent to distribute hydromorphone; Count 3, possession with intent to distribute morphine; and Count 4, possession of a firearm in furtherance of drug trafficking.

At the arraignment, the Government sought detention. The Defendant was detained and remanded to the custody of the U.S. Marshals pending a bond hearing.

Then, on July 10, his counsel filed a motion for bond and it was referred by Judge Moody. A hearing was set for July 17, but his counsel filed a motion to withdraw that request until a new release plan was scheduled.

On July 28, his counsel filed a motion again requesting a bond hearing. And a hearing was held on August 13. At that hearing, upon agreement of the parties, the Court

1 determined that the Defendant would be released on standard
2 and special conditions. He was released to be transported
3 immediately to Crowley's Ridge in Jonesboro, Arkansas for
4 inpatient treatment, followed by Chem Free living until trial.

5 On January 15 of this year, the Government filed a
6 motion for summons and to revoke his bond. A hearing was held
7 on January 27th. Defendant admitted to the allegations and
8 the Court found that he had, in fact, violated his conditions
9 of release. Nonetheless, the Court ordered him to be released
10 again into inpatient treatment, followed by Chem Free living
11 until trial.

12 Then, on February 9, the Government again filed a
13 motion to revoke and asked for a summons.

14 And these are the allegations:

15 That on February 6th of this year, he was discharged
16 from the Gyst House for having an unauthorized cell phone
17 while in treatment.

18 The Defendant reported to the Probation Office that
19 he was discharged on February 8th for not being able to work
20 in the Detail Shop.

21 A bond revocation hearing was scheduled for February
22 24; however, the Court received a report from the Pretrial
23 Services Officer that he had tested presumptively positive for
24 narcotics before the hearing and, per court policy, the
25 Defendant was detained until he tested clean. And that's why

1 we're here today, to continue that hearing.

2 And so, I want to make sure, first of all, Mr. Askew,
3 you can hear me; is that correct?

4 THE DEFENDANT: I can hear you, sir.

5 THE COURT: Okay. All right.

6 Mr. Byrd, after my reading of the allegations, does
7 your client admit or deny the allegations?

8 MR. BYRD: He denies them, Your Honor.

9 THE COURT: He denies them. Okay.

10 All right. Ms. Shipley, would you like to call a
11 witness or --

12 MS. SHIPLEY: I would, Your Honor.

13 THE COURT: Okay.

14 MS. SHIPLEY: We would call Officer Glass.

15 THE COURT: All right.

16 (TANYA GLASS, GOVERNMENT'S WITNESS, SWORN.)

17 MS. SHIPLEY: Your Honor, would you prefer that I
18 approach the podium or --

19 THE COURT: No, you can speak from right there --

20 MS. SHIPLEY: Okay.

21 THE COURT: -- as long as you speak into the
22 microphone.

23 MS. SHIPLEY: Thank you.

24 THE COURT: Okay.

25 DIRECT EXAMINATION

Glass - Direct

7

1 BY MS. SHIPLEY:

2 Q Officer, would you state your name for the record, please?

3 A Tanya Glass.

4 Q And, Officer Glass, you have been supervising Deshaon
5 Terrell Askew for a while; is that correct?

6 A Yes.

7 Q When did your supervision begin?

8 A Whenever he was released September 14th, 2020.

9 Q Okay. And we're here specifically about new allegations
10 with a cell phone and having been released from the Gyst
11 House. Can you tell the Court what you were notified happened
12 at the Gyst House?

13 A I received a text message from Mr. Askew advising that he
14 was discharged from the Gyst House for not being able to cut
15 it in the Detail Shop. Then, upon further investigation, I
16 talked to Ruben, who ran the facility, and he sent -- he sent
17 me some -- the discharge paperwork saying that there was an
18 unauthorized cell phone.

19 Q Okay. And had you had communication with Mr. Askew while
20 he was at the Gyst House?

21 A I had.

22 Q And what kind of communication did you have with him?

23 A He sent me text messages.

24 Q And text messages from what phone?

25 A The cell phone that he had originally had.

Glass - Direct

8

1 Q Okay. And so, the Gyst House had discovered that cell
2 phone; is that correct?

3 A As far as I know, yes.

4 Q Okay. And so, he -- but he had been sending you text
5 messages on a cell phone that he denies having; is that
6 correct?

7 A Yes.

8 Q Okay. And if I may, also, last time we were in court, you
9 were going to --

10 MS. SHIPLEY: And, Judge Kearney, if you'll tell me
11 if I'm overstepping where I should go right now and I'll back
12 off, but I know that the Court had asked that the drug tests
13 be sent off for verification.

14 THE COURT: Right.

15 MS. SHIPLEY: And I -- I'm happy to ask Officer Glass
16 about that now with the Court's permission.

17 THE COURT: Yes. Go ahead.

18 MS. SHIPLEY: Okay.

19 BY MS. SHIPLEY:

20 Q Officer Glass, did you send off the two tests, I think --
21 or the actual tests that we were in here last on, on February
22 14th?

23 A Yes, I sent three of them off. The January 5th, 2021, the
24 one that he admitted to; January 27th, 2021, which was the
25 first revocation hearing; and then the second hearing that we

Glass - Direct

9

1 had, that Mr. Askew was detained, on February 24, 2021.

2 Q Okay. And just as a matter of refreshing my memory as
3 well, on the first revocation hearing that we had when he
4 tested positive, did -- did he tell you when he had last used?

5 A January 3rd, 2021.

6 Q Okay. And when he was in here on February 24th, on his
7 admittance sheet, when did he tell you he had last used?

8 A January 15th, 2021.

9 Q Okay. So, he -- he admitted that he had used again after
10 the January 3rd, correct?

11 A Correct.

12 Q Okay. And when you sent it off, what verification did you
13 receive?

14 A I received an interpretation report stating that the
15 offender reused marijuana prior to each of the collections
16 listed, which would be January 27th, 2021 and February 24th,
17 2021.

18 Q Okay. So neither test was residual then?

19 A Correct.

20 Q Okay.

21 MS. SHIPLEY: I'll pass the witness, Your Honor.

22 THE COURT: All right. Mr. Byrd?

23 MR. BYRD: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. BYRD:

Glass - Cross

10

1 Q Officer Glass, so I understand that he texted you from the
2 Gyst House. Now, is -- Mr. Ruben at the Gyst House, he -- he
3 didn't seize a phone from him? I mean, you don't have really
4 any information on that, do you?

5 A He didn't what now? I'm sorry.

6 Q Take a phone from him?

7 A Seize? Okay.

8 Q Or see a phone?

9 A I didn't know if you said see or seize. I'm sorry. Not
10 that I'm aware of.

11 Q So, because a second ago, you testified that -- that your
12 response to whether he had a phone was, "As far as I know."
13 That's what you testified to a second ago?

14 A Correct.

15 Q So, you're not exactly certain if he had his own phone,
16 specifically, in the facility?

17 A Correct. It was just his number that he was texting me
18 from.

19 Q Fair enough. I'd be silly if I didn't have somewhere to
20 go with that.

21 A Right.

22 Q Do you -- are you familiar with an app called the
23 "TextNow" app?

24 A I'm not familiar with that one.

25 Q Are you familiar with technology that can be placed on

Glass - Cross

11

1 smart phones, like "WhatsApp," and stuff like that?

2 A Yes.

3 Q And so, is it possible that he could have accessed an
4 account through his phone number via an app on somebody else's
5 phone?

6 A It is possible.

7 Q Okay. The date that -- but to be fair, you have no idea
8 one way or the other if -- if that's what happened, but it's
9 possible?

10 A Correct.

11 Q Okay. The violation is from February -- February -- let's
12 see -- he was discharged on February 8th.

13 A February 6th, I believe.

14 Q February 6th?

15 A He reported to me on the 8th.

16 Q Okay. Thank you. Wasn't that Super Bowl Sunday, around
17 about? Was that Super Bowl Sunday?

18 A I believe it was a Saturday that he was discharged. I
19 believe February 6th was a Saturday.

20 Q Okay.

21 A I may be completely wrong on that. I don't have a -- I
22 don't have a date, like a calendar.

23 THE DEFENDANT: (Indiscernible.)

24 MR. BYRD: Thanks, Deshaon, but just -- just be quiet
25 for me.

Glass - Cross

12

1 BY MR. BYRD:

2 Q Well, do you know anything about pizzas being ordered at
3 -- at the Gyst House?

4 A Just what he -- he had told me prior to court on February
5 24th, whenever he was trying to explain everything. And I
6 told him that he just needed to -- to talk to you about it.

7 Q Right. Okay. Well, so, I mean, it's possible that he
8 accessed the app from someone else's phone, so it's -- so it's
9 possible that he didn't actually have a phone of his own in
10 the facility?

11 A It is possible, yes.

12 Q And is it possible -- now I know that he said to you that
13 he was discharged for not being able to work in the Detail
14 Shop, but there's also some confusion about whether or not he
15 got in trouble or somebody got in trouble for ordering pizzas
16 on a telephone. Is it possible that he was just a little
17 confused about why he was getting kicked out?

18 A I guess. I -- honestly, I don't know. I just know what I
19 was told from him and what I was told -- the letter from Mr.
20 Ruben.

21 Q Thank you. Let's talk about some good things. I mean,
22 when he was released last September, he was doing pretty well
23 until the funeral, the use --

24 A Correct.

25 Q -- the marijuana use?

Glass - Cross

13

1 A Yes.

2 Q Was he working?

3 A He was.

4 Q So he finished the 30 day inpatient --

5 A Uh-huh.

6 Q -- residential portion?

7 A Yes.

8 Q Stepped down to the Chem Free?

9 A Yes.

10 Q It's my understanding there was a woman there who runs it,
11 who didn't have any problems with Mr. Askew really. I -- it
12 sounds like he was doing pretty well; is that fair to say?

13 A Yeah. Whenever I would do treatment staffings with --
14 with his counselor, while he was in inpatient, they were good
15 reports.

16 Q So, for about four months or so, doing okay, working; he
17 was working in a restaurant as a cook?

18 A Yes.

19 Q Okay. With respect to the test, this new use allegation,
20 you said he admitted he used on -- did you say he -- he
21 admitted that he used like a new use on January 15th?

22 A That's what the admission form -- whenever he was here on
23 February 24th, that's what the admission form stated, he
24 signed it as the -- a new use on January 15th.

25 Q Obviously, I don't have an expert witness here today, and

Glass - Cross

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1 I'm not a chemist or a biologist, but my client is a pretty
2 big guy; is that fair to say?

3 MR. BYRD: My apologies, Mr. Askew.

4 BY MR. BYRD:

5 Q He's a big guy? He's probably over six foot. You know, I
6 mean, it's fair to say, judicial notice, he's a big guy?

7 A Correct.

8 Q And so, if he used on the 15th, I understand that -- that
9 the -- that there is a positive on February 24th, but February
10 24th would be -- I mean, they say that marijuana can be in the
11 system for up to four weeks or so; is that right?

12 A Yeah, something like that, 30 -- 30 days or so, maybe a
13 little more.

14 Q Maybe a little more or --

15 A Maybe a little less.

16 Q -- maybe a little less?

17 A Correct.

18 Q And the 24th of February is about six weeks after his last
19 admission of use?

20 A Do what? I'm sorry. What?

21 Q The 24th of February would be about six weeks after his
22 last admission of use on the 15th of January?

23 A Yeah, just about.

24 MR. BYRD: I'll pass the witness, Your Honor.

25 THE COURT: All right.

Glass - Redirect

15

REDIRECT EXAMINATION

BY MS. SHIPLEY:

Q Officer Glass, do you know if Mr. Ruben gives -- people that are discharged there, does he give them the same letter that he gives you, stating why he has been discharged?

A I honestly don't know. This letter was actually addressed to Mr. Byrd.

Q Okay.

A And I just got a copy of it.

Q Okay. So you're not aware if they're given paperwork?

A I'm not aware, no.

Q Okay. Okay. But your paperwork didn't refer to anything about the Detail Shop; is that correct?

A Correct.

MS. SHIPLEY: Okay. No further questions, Your Honor.

THE COURT: I just want clarification -- oh, go ahead, did you have another question?

MR. BYRD: Just briefly.

THE COURT: Yes. Go ahead. Go ahead.

MR. BYRD: Unless you want to go.

THE COURT: No. No. No. No. Go ahead.

RECROSS EXAMINATION

BY MR. BYRD:

Q I forgot to ask, were there any like rules that he signed

Glass - Recross

16

1 up for, signed on, you know, did he -- did he sign to abide by
2 specific expressly written rules before he entered into the
3 Gyst House?

4 A I did not get a copy of those, so I'm not aware.

5 Q Okay. Oh, I forgot to ask you this. Is there a bed
6 waiting for him back at Crowley's Ridge, potentially for --
7 for March 29th?

8 A It's March 13th, I believe.

9 Q Oh, it's even sooner?

10 A I believe so, yes. They -- I think they moved the date
11 up.

12 Q So, if the Court were inclined to give him a chance to
13 return to a contract facility, is it fair to say the contract
14 facilities, there's a little more predictability, you have a
15 better relationship, the rules are more clear, as opposed to
16 say Gyst House?

17 A That's fair to say, yes.

18 Q Okay. Thank you.

19 MR. BYRD: No further questions.

20 THE COURT: My question has to do with I believe your
21 reports, upon direct testimony, from the labs indicated there
22 was new use based upon the last reported test. Right?

23 THE WITNESS: Uh-huh. Yes.

24 THE COURT: In other words, and -- and when they say
25 there is new use, what do they base that on?

Glass - By the Court

17

1 THE WITNESS: I actually have the report if you'd
2 like to look at it. It -- it tells the -- the --

3 THE COURT: Do they do nanogram levels?

4 THE WITNESS: Yes. They're -- it's all lined out
5 here in the -- the numbers. Honestly, I don't know, I just
6 read the report.

7 THE COURT: I mean, I've heard this type of testimony
8 before --

9 THE WITNESS: Correct. Yes.

10 THE COURT: -- but it's -- it's based upon -- they
11 can say if the nanogram levels have -- have gone up from the
12 last test, that's new use; is that correct?

13 THE WITNESS: Right. Or if they haven't went -- they
14 haven't went down.

15 THE COURT: Right. Okay.

16 THE WITNESS: And it's broken down into this report
17 if you'd like a copy of it.

18 THE COURT: No, I just --

19 THE WITNESS: Okay.

20 THE COURT: -- wanted to see if you had the report
21 and if it suggested that.

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. All right. If anyone wants to ask
24 questions based upon my questions, you're free to.

25 MR. BYRD: No, sir.

1 THE COURT: All right.

2 MS. SHIPLEY: No, Your Honor.

3 THE COURT: That's all I have for you. Thank you.

4 THE WITNESS: Okay.

5 (Witness steps down.)

6 THE COURT: Mr. Byrd, I suppose you see your client
7 with his finger up. I don't know --

8 MR. BYRD: Mr. Askew, I -- I would just stay quiet
9 for now. Okay?

10 THE DEFENDANT: (No audible response.)

11 THE COURT: Okay. Well, first of all, are there any
12 more witnesses for you, Ms. --

13 MS. SHIPLEY: No, Your Honor.

14 THE COURT: Okay.

15 MS. SHIPLEY: No, Your Honor.

16 THE COURT: Mr. Byrd?

17 MR. BYRD: None for the defense, Your Honor.

18 THE COURT: Okay. Okay. So you don't want him to --
19 he's not testifying?

20 MR. BYRD: Well, if he wants to --

21 THE COURT: I mean --

22 MR. BYRD: -- he has that right. I -- I was --

23 THE COURT: You're --

24 MR. BYRD: Mr. Askew, do you want to speak on this
25 issue? You'll be cross examined by the --

1 THE DEFENDANT: Oh, yes, sir.

2 THE COURT: If so, you're going to be cross examined.

3 MR. BYRD: I just -- thank you, Judge.

4 THE COURT: All right.

5 MR. BYRD: You'll be cross examined by the
6 prosecutor. And you need to understand that.

7 THE DEFENDANT: Okay.

8 THE COURT: All right. Go ahead.

9 THE DEFENDANT: Well, I was --

10 MR. BYRD: Let me -- let me just --

11 THE DEFENDANT: -- I was -- well --

12 MR. BYRD: Mr. Askew, let me -- let me pause for a
13 second. Do you want -- let me ask you a question, do you want
14 to clarify the circumstances of your release from Gyst House
15 or the incident with Gyst House?

16 THE DEFENDANT: Yes, sir.

17 MR. BYRD: Okay.

18 THE DEFENDANT: Yes, sir. You know --

19 MR. BYRD: Then tell --

20 THE DEFENDANT: -- (indiscernible).

21 MR. BYRD: Let me -- let me speak. Let's not speak
22 over each other.

23 And, Your Honor, I'll put him on for the limited
24 purpose of explaining his -- his -- you know, issues at the
25 Gyst House.

Askew - Direct

20

1 DIRECT EXAMINATION

2 BY MR. BYRD:

3 Q Go ahead, Mr. Askew. Tell Judge Kearney what happened at
4 the Gyst House.

5 A Sir, the day that she said that they discharged me, they
6 discharged me Monday morning after the Super Bowl. It's a guy
7 -- well, it's a guy in the Gyst House that has privileges,
8 that they had they phone. One guy came in and told me, he
9 said that he was ordering pizza for the Super Bowl. He said
10 he'd rather it be four, and he said that if I wanted to order
11 something, he will order it for me, I'd just have to pay him
12 back. I told him I've got my own money, he could order me a
13 pizza. He ordered the pizza. And we have smoke breaks. I
14 went out with the first group for a smoke break, and he went
15 out with the second group. I came in and they -- there was a
16 knock before (indiscernible, someone clears their throat and
17 drowns out Mr. Askew's voice on the recording) the pizza from
18 the pizza man, because I couldn't talk to the females and tell
19 them to tell the guy to come to the door to get the pizza. I
20 said, "Okay, well, I'll pay for the pizza. When they get off
21 their smoke break, maybe they'll pay me back." In the process
22 of me getting my money back, Vince walked in, and that's the
23 guy that runs the Gyst House. He -- he asked if -- he asked
24 the ladies, he said, "Oh, y'all have pizza. Who ordered
25 pizza?" They said, "Deshaon." I said, "No." He said, "What

Askew - Direct

21

1 you mean no?" I said, "Man, I didn't order no pizza." He
2 said, "Okay. You didn't order pizza, but you have pizza, and
3 you're getting money for pizza, so who ordered the pizza?" I
4 didn't say nothing, and the guy that ordered the pizza didn't
5 say anything. So, he said, "Now, I'm going to ask again, who
6 went to the door and got the pizza?" They said, "Deshaon."
7 "Who paid for the pizza?" The ladies said, "Deshaon." I
8 said, "Sir, I never ordered pizza." He said, "So where the
9 phone at?" I said, "I don't have a phone." He said, "You had
10 to have a phone to order the pizza because you have the
11 pizza." He said, "You had the -- you had the pizza out." I
12 said, "Sir, I never ordered the pizza." He said, "Okay." And
13 he walked off.

14 Q Okay.

15 A I looked up the next morning, Monday morning, Ms. Lavonta
16 (phonetic), the receptionist lady, she came in with a paper,
17 told me to sign it, me and two other guys, and said that you
18 guys been discharged. And I said, "For what?"

19 Q Okay.

20 A She said, "I don't know. Vince told me to kick y'all out
21 today, this morning."

22 Q Okay. Let --

23 A So, I got kicked out Monday morning. It wasn't Saturday
24 or none of that.

25 Q Okay.

Askew - Direct

22

1 A It was Monday.

2 Q Thank you for clarifying that. Let me just ask you a
3 question. Did you sign any -- did you have any written rules,
4 or anything like that, that you were presented with when you
5 checked into Gyst House?

6 A No, sir. I -- I signed for the 250, I gave them 250
7 bucks, I signed a paper saying that I -- I gave them my
8 admission fee. And I was signing for -- for what -- I guess
9 whatever went on at the Gyst House was between me and the Gyst
10 House. They wasn't supposed to give out no information of my
11 treatment or none of that. That was it. That was all.

12 Q But you also thought that --

13 A And I was told that --

14 Q You also thought that --

15 A And I also --

16 Q Go ahead.

17 A And I also signed a paper to work at the Detail Shop for
18 25 dollars a day, and that was supposed to pay my rent. And
19 due to me being a diabetic, I have to use the washroom. He
20 wasn't having it. He said that I was working too slow and I
21 used the bathroom, so he couldn't have me working at the shop.
22 So he didn't have me working at the Detail Shop. He had me at
23 the Gyst House.

24 Q Okay. Is that -- so, is that why you thought you were
25 discharged for not being able to work in the Detail Shop?

Askew - Direct

23

1 A Yes. Because of --

2 Q Because of your diabetes?

3 A -- what he say, and they discharged me --

4 Q Okay.

5 A -- that's what I thought that, you know, they was kicking
6 me out, because I couldn't work in the shop, because he told
7 me that I couldn't pay -- he said, "How are you gonna pay your
8 rent" --

9 Q Okay.

10 A -- "if you cannot work?"

11 Q Mr. Askew, let's wrap up real quick. Let me just ask you
12 a couple of things. If you're given an opportunity to return
13 to Crowley's Ridge, are you intending to abide by all the
14 rules, all the written rules, go back to work, and comply with
15 all conditions of release?

16 A Yes, sir.

17 Q Okay.

18 MR. BYRD: Pass the witness.

19 MS. SHIPLEY: Judge, I will go to the podium so he
20 can see me.

21 THE COURT: Okay. All right.

22 MS. SHIPLEY: I don't think that's kind of fair to be
23 talking and he can't see me.

24 THE COURT: Right.

25 CROSS EXAMINATION

Askew - Cross

24

1 BY MS. SHIPLEY:

2 Q Mr. Askew, can you hear me okay?

3 A Yes, ma'am.

4 Q Okay. I just want to ask you a few questions based on
5 what you just told Mr. Byrd. Were you given oral -- did they
6 tell you what the rules were of the Gyst House?

7 A No, ma'am. They -- well, yeah -- well, basically, you
8 know, when you go to class -- well, they call them meetings.
9 They tell you everything at the meetings. They tell you that
10 you can't have visits. You have to work for privileges.
11 Every two weeks you get privileges, from smoke privileges, to
12 use a cell phone, or to use, you know, to get -- order food.
13 I have to go every two weeks to get my privileges, you know,
14 to fill my privileges out.

15 Q Okay. And so, were you told that you were not allowed to
16 have a phone during that meeting?

17 A Told me that I wasn't allowed to have any -- for 30 days,
18 I wasn't allowed to have type of communication with my family,
19 or nothing -- nothing like that.

20 Q Okay. So -- so you were aware that was the rule, correct?

21 A Yes, ma'am.

22 Q Okay. So, did you use somebody -- did you have a phone in
23 the Gyst House?

24 A No, ma'am. I used the -- the guy's phone that had -- I
25 put the app on his phone to get in contact with Mr. Byrd and

Askew - Cross

25

1 Ms. Curry due to trying to find out what day would I be --
2 that I need out of there, because I was sitting there until my
3 bed space opened at Crowley's Ridge.

4 Q So -- so you had the ability -- you had the ability to
5 communicate through somebody else's phone?

6 A Yes, ma'am.

7 Q Okay.

8 A And I know I was wrong, but I was trying to keep in
9 contact with Mr. Byrd and Ms. Curry, trying to figure out what
10 day did I need to go to Crowley's Ridge or go to another
11 facility that they had -- that you guys had a contract with.

12 Q Okay. But if you needed to, you could have also
13 communicated with your family, correct?

14 A Yes, ma'am, but --

15 Q Okay. That's all.

16 A -- I didn't.

17 MS. SHIPLEY: That's all I have, Your Honor. Thank
18 you.

19 THE COURT: Any redirect?

20 MR. BYRD: No, Your Honor.

21 THE COURT: All right. Any other witnesses?

22 MR. BYRD: None for the defense.

23 THE COURT: Okay. All right. I am -- I do find that
24 Mr. Askew has violated the conditions set by the Court, in
25 that he has used drugs since we were last here. He showed up

1 here for the revocation hearing with drugs in his system. And
2 I find that the lab reports, which suggests that he -- that's
3 new use, clearly indicates that he has used since the last
4 admission of his use.

5 I also find that he violated my conditions, because,
6 very specifically, when he was last here, I found that he was
7 in violation, but, nonetheless, and based upon his
8 representations through his lawyer that he could do better if
9 allowed another opportunity, I allowed him to go to the Gyst
10 House. So, I did do that. And it's on him to make sure that
11 he follows whatever rules there are, so that he doesn't get
12 kicked out, because the order specifically said he was to be
13 there until trial or otherwise being placed somewhere else.
14 So, that didn't happen. He ends up getting kicked out.

15 Now, I've heard his excuses, but he's also admitted
16 to, you know, using somebody's phone with an app on it to --
17 to do things. Also, I think his testimony was that he wasn't
18 supposed to order food and you have to earn a privilege to do
19 that, and he admits that he was ordering a pizza through
20 somebody else. The bottom line is, he got kicked out of a
21 program that I somewhat reluctantly allowed him to go into.

22 So, I have -- after finding that he's violated the
23 terms, I now want to hear argument from counsel as to what I
24 should do about it. Obviously, I could do nothing, leave it
25 as it is; I could modify his conditions; or I could revoke him

1 and detain him.

2 So, let me hear from you first, Ms. Shipley.

3 MS. SHIPLEY: Your Honor, the Government has concerns
4 that this Defendant was given a second chance at the last
5 hearing, the Court allowed him to go to a rehab. My concerns
6 are his dishonesty in some of this. I don't know that -- you
7 know, he assured the Court today that if he were allowed to
8 go, he would follow their rules, but that's what he also
9 assured the Court the last time he was in here.

10 So, we're asking that he be detained at this point,
11 Your Honor. I don't know that -- that there are conditions
12 that the Court could impose on him that he would comply with,
13 and -- and would we be back in here in a month, given his
14 history.

15 And I do acknowledge that prior to allowing him to
16 travel, he -- he did well for about six months after getting
17 out of the rehabilitation that he was in. But I think that he
18 has shown through his actions since December that he is not
19 following the rules again. So the Government would have
20 concerns about his release.

21 THE COURT: All right. Mr. Byrd?

22 MR. BYRD: Your Honor, I'm asking that he be able to
23 release to Crowley's Ridge, return to Crowley's Ridge where he
24 did so well before, and get back into that program. His trial
25 date is set in August. You know, we're a good ways away.

1 That's five months away.

2 You expressed concern about the Gyst House because it
3 was non-contract. I remember that. And I think the concern
4 is obvious, they're not contract, we don't really know what
5 the rules are. He -- he was honest when he -- under cross
6 examination, he admitted to using someone else's phone, he
7 admitted that there were privileges and things. And so, I --
8 I don't -- you know, he was honest about that.

9 Given the ambiguity of the rules at Gyst House, and
10 the fact that he did really well before at Crowley's Ridge,
11 I'm just asking the Court to allow him to -- to have a chance
12 at another contract facility where things are a lot more
13 clear, the lines of communication are established and open
14 between the facility and Pretrial. And he was working the
15 whole time before. He was doing what he was supposed to do.
16 The -- the original use that set all this whole chain of
17 events in motion, concerning about using in Chicago when he
18 went for the funeral for his mom, and that was a violation,
19 but you know the context of it, it is -- it is mitigating, I
20 would say.

21 And so, you know, I think all things considered, he's
22 worthy of -- of one more chance to get back into a contract
23 facility and do as well as he had previously been doing,
24 because it -- it really -- did he have his own phone there at
25 Gyst House? No. Did he use someone else's? Yes. And that

1 person was allowed to have it. So, I mean, I just think that
2 there's some gray area and some ambiguity about the rules and
3 things that -- that are worth considering as you make a
4 decision in this matter.

5 THE COURT: All right. Thank you.

6 And, Mr. Byrd, as always, you're a -- you're a
7 convincing and very good lawyer, but, you know, in this
8 situation, needless to say, as you will recall and you've
9 already recounted, at that last hearing I found that he was in
10 violation. And he had made some admissions regarding that.
11 And I was hesitant to release him. Remember, I was saying,
12 "I'm just going to detain him until we can get a contract
13 facility." Well, you, on his behalf, were extolling the
14 virtues of the Gyst House and saying let him go there until.

15 And so, I'm not really going to give him credit for
16 any problems that the Gyst House has, because he wanted to go
17 there, because he wanted to get out of jail right away, and
18 indicating that he could do fine until we put him into another
19 facility.

20 Obviously, he didn't do well there. He ends up
21 getting kicked out. And I understand your argument regarding
22 it wasn't his phone, et cetera. But just like, you know, a
23 felon can't own or pick up somebody else's gun, he can't -- he
24 shouldn't have been using a phone when he was not privileged
25 to do so. He should not have put himself in a situation to

1 get kicked out of the Gyst House, because I put him there to
2 tell him to stay there until trial or until I otherwise found
3 another facility for him to go to. And it didn't work out. I
4 gave him credit on the other one, and that's why I released
5 him the second time, because I was sympathetic to what
6 happened with his mother and -- and, you know, the things that
7 happened before, and did not want to lock him up. That's why
8 I gave him that second chance.

9 I am not going to give him a third chance, because I
10 -- I can't trust that he will do any better this time than
11 he's done up to this point, because I've listened to him and
12 believe --

13 THE DEFENDANT: I promise --

14 THE COURT: I'm -- sir, please don't do that.

15 THE DEFENDANT: I promise --

16 THE COURT: I did not want to lock you up. I -- I
17 think I showed that by, despite finding that you were in
18 violation, I said I'm going to go ahead -- I was hesitant to
19 let you out to go to the Gyst House because it was not a
20 contract facility, but you didn't want to stay in there until
21 we got a contract facility. Now you're complaining that
22 because they didn't -- their standards were lower and weren't
23 as good as a contract facility, I should give you credit for
24 that. I'm not going to do that.

25 So, I'm going to revoke your bond and order you

1 detained.

2 Is there anything else we need to take up today?

3 MS. SHIPLEY: Not from the Government, Your Honor.

4 MR. BYRD: No, Your Honor.

5 THE COURT: All right. We're in recess as to this
6 case.

7 THE DEFENDANT: Your Honor, please.

8 (Adjournment at 12:23 p.m.)

9 ELECTRONIC SOUND RECORDING CERTIFICATION:

10 I, court approved transcriber, certify that the foregoing is a
11 correct transcript from the official electronic sound
12 recording of the proceedings in the above-entitled matter.

13

14 /s/Robin Warbritton August 24, 2021
Signature of Approved Transcriber Date

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16 Robin Warbritton
Typed or Printed Name

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